

**Negotiating Group on Rules**

**NEGOTIATING GROUP ON RULES**

Report by the Chairman to the  
Trade Negotiations Committee

**I. STATUS OF WORK**

1. Although the work of the Negotiating Group on Rules (the "Group") was for a time delayed due to the general situation in the DDA negotiations following the Ministerial Conference in Cancún, the Group has since the spring of 2004 resumed its work in a vigorous and intensive manner.

2. In the area of Anti-Dumping ("AD") and Subsidies and Countervailing Measures ("SCM") including fisheries subsidies, the Group held its first post-Cancún meeting in March 2004. A significant aspect of that meeting, which I will discuss in more detail below, was the decision to begin an informal process where elaborated proposals submitted to the Group as JOB documents would be discussed and analyzed in depth in informal meetings. The Group has held two further meetings this spring and summer, on 26-28 April and 7-8 June, and these meetings have included such an informal process in addition to the formal meetings. A further meeting on AD/SCM issues is scheduled to take place on 12-13 July.

3. The Group held formal meetings devoted to the area of Regional Trade Agreements (RTAs) on 11 March and 5 May 2004. In addition, the Group had open-ended informal discussions on RTAs' transparency and systemic issues. The next meeting is scheduled for on 29 June.

4. To date, nearly 150 formal submissions have been received from Participants. These submissions have been circulated in the TN/RL/W/... series. In addition, the Group has to date received and considered twelve informal submissions containing a wide range of proposals for the informal process discussed above.

**II. OUTSTANDING ISSUES**

5. Other than the issue of observers – a question with horizontal implications – there are no outstanding procedural issues in the Group at this time.

**III. FUTURE WORK**

**A. ANTI-DUMPING, AND SUBSIDIES AND COUNTERVAILING MEASURES INCLUDING FISHERIES SUBSIDIES**

6. Progress in the Group should be assessed in light of its mandate, which is to identify provisions in the AD and SCM Agreements that Participants wish to clarify and improve and to negotiate any appropriate clarifications and improvements to those provisions. In my view, work in this direction has advanced significantly in the past few months. Until Cancún, the Group met almost exclusively in formal mode and focused on identifying issues that Participants wanted to pursue.

Since the March 2004 meeting, by contrast, the bulk of the Group's work has been conducted informally and has involved the in-depth examination of detailed elaborated proposals submitted by Participants. In particular, and without prejudice to their rights to submit additional formal proposals, Participants are now engaged in presenting elaborated proposals in the form of JOB documents in respect of issues that have been identified for negotiation, setting forth in detail the precise changes that they seek to the existing rules.

7. The shift towards informal work represents not only a change in process but a major qualitative shift in the nature of the discussions. While the formal discussions were characterized by issue identification and a relatively *pro forma* exchange of views, the informal process has involved a lively and frank debate over the merits of highly detailed proposals for clarifications and improvements to the AD and SCM Agreements. Participants are now seeking to come to grips with the details of the proposals in question and with their practical implications. It is my clear sense that Participants are now moving beyond formal positions and are seriously exploring the feasibility and desirability of the proposals on the table with a view to finding solutions.

8. Substantively, the discussions to date have revealed that there is considerable interest in the clarification and improvement of various aspects of the AD and SCM Agreements, with a particular emphasis on trade remedy questions. Proposals have been tabled on a wide range of issues. It is clear that many of these proposals are controversial, and that even where there is a broadly-held view that an issue should be addressed there are often a wide range of options for addressing it. That said, it is my perception that Participants are seriously seeking solutions to the issues that have been identified. This is true also in the area of fisheries subsidies, where there has been a shift in the debate from the issue of *whether* there is a need for specific disciplines in the sector to the question of the *nature* and *extent* of any such disciplines.

9. While developments in the Group are encouraging, it is clear that a great deal of work remains to be done. The serious examination of proposals in which the Group is now engaged is highly technical and time-consuming, and I believe that the Group must accelerate its work. In order to facilitate planning and encourage the participation of capital-based experts, I have proposed to the Group an intensive programme of meetings of significant duration between summer break and the end of the year. As discussions at meetings of the Group are becoming increasingly serious and concrete, I strongly encourage all delegations with an interest in Rules issues to ensure attendance by appropriate experts and to participate actively. In the long-run, of course, the intensity of the work in our Group will depend upon the pace of progress in other areas of the negotiations.

## B. REGIONAL TRADE AGREEMENTS

10. The Group has reinstated its pre-Cancún practice of holding open-ended informal discussions on RTAs' transparency and systemic issues. Regarding transparency, Participants continue to express a firm commitment to improving procedures so as to enhance RTAs' transparency and to revitalizing the role of the Committee on Regional Trade Agreements (CRTA). Progress has been registered on some elements of an approach already discussed before Cancún, in particular on the format of RTA factual presentations, should these be entrusted to the Secretariat. I am currently consulting with participants on how to advance further on this matter and to tackle the more difficult issues, including the scope of RTAs to be covered by any new procedures and questions related to the consistency assessment role entrusted to the CRTA.

11. The Group will engage, as from the June meeting, on in-depth discussions on systemic issues, according to the roadmap I proposed, to sequence the consideration of priority issues identified by Participants. The June meeting will be devoted to discussions on RTAs' "coverage" questions.

12. The developmental aspects of RTAs have been important to the Group's work, mainly in two areas: the place of RTAs notified under the Enabling Clause *vis-à-vis* any improved RTA's transparency and review process resulting from current negotiations; and the inclusion of special and differential treatment (S&D) for developing countries in some WTO provisions relating to RTAs.

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